

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JANE ROE 1; JANE ROE; JOHN ROE,

Plaintiffs,

-against-

CITY OF NEW YORK, *et al.*,

Defendants.

20-CV-10188 (LLS)

ORDER TO AMEND

LOUIS L. STANTON, United States District Judge:

Plaintiffs, proceeding *pro se* and desiring to proceed anonymously, filed this action alleging that “New York City, otherwise known as the ‘City,’ through its subordinates, employees, agents, and co-conspirators, such as the individual DANY defendants orchestrated a tentacular conspiracy among prosecutors, judges, clerks, lawyers and the other Municipal and State defendants to engineer Plaintiffs’ defeat in both the criminal and civil courts.” (ECF No. 3 at ¶ 1.) For the reasons set forth below, within thirty days of the date of this order, the Court directs Plaintiffs to: (1) submit under seal an amended complaint with their real names, signatures, and addresses; (2) submit a motion to proceed anonymously; and (3) pay the \$400.00 in filing fees or each Plaintiff request authorization to proceed *in forma pauperis* (IFP), that is, without prepayment of fees, by submitting under seal three completed and signed IFP applications.¹

¹ Plaintiffs must clearly mark on the front page of each submission that the submission should be filed under seal.

DISCUSSION

A. Proceeding Anonymously

Rule 10(a) of the Federal Rules of Civil Procedure provides that “[t]he title of [a] complaint must name all the parties.” “This requirement . . . serves the vital purpose of facilitating public scrutiny of judicial proceedings and therefore cannot be set aside lightly.” *Sealed Plaintiff v. Sealed Defendant*, 537 F.3d 185, 188-89 (2d Cir. 2008). Courts have, however, permitted parties to proceed under a pseudonym or anonymously in limited circumstances. In deciding whether to permit a party to proceed anonymously, the United States Court of Appeals for the Second Circuit has articulated a nonexhaustive list of ten factors that courts should consider:

- (1) whether the litigation involves matters that are highly sensitive and of a personal nature; (2) whether identification poses a risk of retaliatory physical or mental harm to the party seeking to proceed anonymously or even more critically, to innocent non-parties; (3) whether identification presents other harms and the likely severity of those harms, including whether the injury litigated against would be incurred as a result of the disclosure of plaintiff’s identity; (4) whether the plaintiff is particularly vulnerable to the possible harms of disclosure, particularly in light of his age; (5) whether the suit is challenging the actions of the government or that of private parties; (6) whether the defendant is prejudiced by allowing the plaintiff to press his claims anonymously, whether the nature of that prejudice (if any) differs at any particular stage of the litigation, and whether any prejudice can be mitigated by the district court; (7) whether the plaintiff’s identity has thus far been kept confidential; (8) whether the public’s interest in the litigation is furthered by requiring the plaintiff to disclose his identity; (9) whether, because of the purely legal nature of the issues presented or otherwise, there is an atypically weak public interest in knowing the litigants’ identities; and (10) whether there are any alternative mechanisms for protecting the confidentiality of the plaintiff.

Id. at 190 (alterations, ellipses, quotation marks, and citations omitted).

Plaintiffs’ 427-page complaint fails to comply with Rule 10(a). They bring this action under the pseudonyms Jane Roe 1, Jane Roe, and John Roe, suing the City of New York and multiple officials and employees of the New York County District Attorney’s Office, the New

York City Police Department, the Legal Aid Society, and the New York State Attorney General. But Plaintiffs do not request permission to proceed anonymously nor provide any reason why the Court should permit them to proceed anonymously. The Court therefore directs Plaintiffs to submit an amended complaint with their real names, addresses, and signatures. The amended complaint with their real names, addresses, and signatures will only be entered on the Court's docket if their motion to proceed anonymously is denied and Plaintiffs consent to proceed with this case under their true names.

If Plaintiffs wish to proceed anonymously with this action, they must file under seal, along with their amended complaint, a motion to proceed anonymously that states the reasons why the Court should permit them to do so. This motion must be captioned as a "Motion to Proceed Anonymously," and include Plaintiff's real names, correct addresses, and signatures. If the Court grants their motion, Plaintiffs will be permitted to proceed under the pseudonyms and their identities will not be disclosed and access to the amended complaint and any other documents identifying them will be limited. If the Court denies the motion, Plaintiffs shall have thirty days to withdraw the action, should they decide not to proceed with their true names.

B. Filing Fees or IFP Application

To proceed with a civil action in this Court, a plaintiff must either pay \$400.00 in fees – a \$350.00 filing fee plus a \$50.00 administrative fee – or, to request authorization to proceed IFP, that is, without prepayment of fees, submit a signed IFP application.

Plaintiffs submitted the complaint without the filing fees and with IFP applications for only two of Plaintiffs — John Roe and Jane Roe, without their real names or signatures. Within thirty days of the date of this order, Plaintiffs must either pay the \$400.00 in fees or each of the three Plaintiffs must submit the attached IFP application under seal with their real names, addresses, and signatures. If the Court grants the IFP applications, Plaintiffs will be permitted to

proceed without prepayment of fees. *See* 28 U.S.C. § 1915(a)(1). Access to any granted IFP application will be limited until the Court makes a ruling on Plaintiffs' motion to proceed anonymously, should they file one.

C. Litigation History

A review of the Court's records reveals that Plaintiffs may have previously attempted to anonymously bring actions in this Court against many of the same Defendants named in this action. On November 12, 2020, Plaintiffs brought an action without their real names, addresses, and without a motion seeking permission to proceed anonymously. They did not pay the filing fees and only two of the three Plaintiffs submitted an IFP application. *See Roe, et al., v. City of New York*, ECF 1:20-CV-9635, 3 (S.D.N.Y. filed Nov. 12, 2020). By order dated November 20, 2020, the Court directed Plaintiffs to file an amended complaint with their real names, addresses, and signatures, and to submit a motion to proceed anonymously and to pay the filing fees or to submit an IFP application for each Plaintiff. (ECF No. 4.) To date, Plaintiffs have not complied with the Court's November 20, 2020 order. On May 22, 2020, Plaintiffs brought an action, also against many of the same Defendants named in this action, without their real names, addresses, and signatures, and without a motion seeking permission to proceed anonymously. They did not pay the filing fees and only one of the three Plaintiffs submitted an IFP application. *See Roe, et al., v. City of New York*, ECF 1:20-CV-4059, 2 (S.D.N.Y. Aug. 5, 2020). By order dated June 1, 2020, the Court directed Plaintiffs to file an amended complaint with their real names, addresses, and signatures, and to submit a motion to proceed anonymously and to pay the filing fees or to submit an IFP application for each Plaintiff. (ECF No. 3.) Because Plaintiffs did not submit their real names and addresses, the Court was not able to send the order to the Plaintiffs and by order dated August 5, 2020, the action was dismissed without prejudice for Plaintiffs' failure to comply with the Court's June 1, 2020 order. (ECF No. 4.) The Court therefore notes that should Plaintiffs

fail to comply with this order, the action will be dismissed for failure to cure the above-referenced deficiencies.

CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiffs and note service on the docket.² The Court grants Plaintiffs leave to file under seal an amended complaint with their real names, signatures, and addresses. They must also either pay the \$400.00 in fees or each submit IFP applications as directed. The amended complaint with their real names, addresses, and signatures will only be entered on the Court's docket if their motion to proceed anonymously is denied and Plaintiffs consent to proceed with this case under their true names. If Plaintiffs submit the amended complaint and IFP applications, the documents should be labeled with docket number 20-CV-10188 (LLS). Plaintiffs must submit the amended complaint, motion to proceed anonymously, and IFP applications to this Court's Pro Se Intake Unit within thirty days of the date of this order.³ An Amended Complaint form and an IFP application are attached to this order.

² Because Plaintiffs did not provide physical or email addresses to the Court, the Clerk of Court will not be able to send this order to Plaintiffs. Plaintiffs must provide to the Court their addresses, and the Court may dismiss the action if they fail to do so. *LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001); see *Fields v. Beem*, No. 13-CV-0005 (GTS/DEP), 2013 WL 3872834, at *2 (N.D.N.Y. July 24, 2013) ("A plaintiff is required to notify the Court when his address changes, and failure to do so is sufficient to justify dismissal of a plaintiff's complaint.") (collecting cases)

³ In light of the current global health crisis, parties proceeding *pro se* are encouraged to submit all filings by email to Temporary_Pro_Se_Filing@nysd.uscourts.gov. *Pro se* parties also are encouraged to consent to receive all court documents electronically. A consent to electronic service form is available on the Court's website. *Pro se* parties who are unable to use email may submit documents by regular mail or in person at the drop box located at the U.S. Courthouses in Manhattan (500 Pearl Street) and White Plains (300 Quarropas Street). For more information, including instructions on this new email service for *pro se* parties, please visit the Court's website at nysd.uscourts.gov.

No summons will issue at this time. If Plaintiffs fail to comply with this order within the time allowed, the action will be dismissed.

SO ORDERED.

Dated: December 7, 2020
New York, New York

Louis L. Stanton

Louis L. Stanton
U.S.D.J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Write the full name of each plaintiff.

CV _____
(Include case number if one has been assigned)

-against-

AMENDED

COMPLAINT

Do you want a jury trial?

Yes No

Write the full name of each defendant. If you need more space, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section II.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. BASIS FOR JURISDICTION

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation, and the amount in controversy is more than \$75,000, is a diversity case. In a diversity case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal-court jurisdiction in your case?

- Federal Question**
- Diversity of Citizenship**

A. If you checked Federal Question

Which of your federal constitutional or federal statutory rights have been violated?

B. If you checked Diversity of Citizenship

1. Citizenship of the parties

Of what State is each party a citizen?

The plaintiff, _____, is a citizen of the State of
(Plaintiff's name)

(State in which the person resides and intends to remain.)

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of

_____.
If more than one plaintiff is named in the complaint, attach additional pages providing information for each additional plaintiff.

If the defendant is an individual:

The defendant, _____, is a citizen of the State of
(Defendant's name)

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of

If the defendant is a corporation:

The defendant, _____, is incorporated under the laws of
the State of _____
and has its principal place of business in the State of _____
or is incorporated under the laws of (foreign state) _____
and has its principal place of business in _____.

If more than one defendant is named in the complaint, attach additional pages providing information for each additional defendant.

II. PARTIES

A. Plaintiff Information

Provide the following information for each plaintiff named in the complaint. Attach additional pages if needed.

First Name	Middle Initial	Last Name
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Street Address

County, City	State	Zip Code
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Telephone Number	Email Address (if available)
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B. Defendant Information

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. Attach additional pages if needed.

Defendant 1:

First Name	Last Name	
Current Job Title (or other identifying information)		
Current Work Address (or other address where defendant may be served)		
County, City	State	Zip Code

Defendant 2:

First Name	Last Name	
Current Job Title (or other identifying information)		
Current Work Address (or other address where defendant may be served)		
County, City	State	Zip Code

Defendant 3:

First Name	Last Name	
Current Job Title (or other identifying information)		
Current Work Address (or other address where defendant may be served)		
County, City	State	Zip Code

Defendant 4:

First Name	Last Name	
Current Job Title (or other identifying information)		
Current Work Address (or other address where defendant may be served)		
County, City	State	Zip Code

III. STATEMENT OF CLAIM

Place(s) of occurrence: _____

Date(s) of occurrence: _____

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and what each defendant personally did or failed to do that harmed you. Attach additional pages if needed.

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

IV. RELIEF

State briefly what money damages or other relief you want the court to order.

V. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

Dated	Plaintiff's Signature	
First Name	Middle Initial	Last Name
Street Address		
County, City	State	Zip Code
Telephone Number	Email Address (if available)	

I have read the Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

Yes No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(full name of the plaintiff or petitioner applying (each person must submit a separate application))

-against-

CV

() ()

(Provide docket number, if available; if filing this with your complaint, you will not yet have a docket number.)

(full name(s) of the defendant(s)/respondent(s))

APPLICATION TO PROCEED WITHOUT PREPAYING FEES OR COSTS

I am a plaintiff/petitioner in this case and declare that I am unable to pay the costs of these proceedings and I believe that I am entitled to the relief requested in this action. In support of this application to proceed *in forma pauperis* (IFP) (without prepaying fees or costs), I declare that the responses below are true:

1. Are you incarcerated? Yes No (If "No," go to Question 2.)

I am being held at: _____

Do you receive any payment from this institution? Yes No

Monthly amount: _____

If I am a prisoner, see 28 U.S.C. § 1915(h), I have attached to this document a "Prisoner Authorization" directing the facility where I am incarcerated to deduct the filing fee from my account in installments and to send to the Court certified copies of my account statements for the past six months. See 28 U.S.C. § 1915(a)(2), (b). I understand that this means that I will be required to pay the full filing fee.

2. Are you presently employed? Yes No

If "yes," my employer's name and address are: _____

Gross monthly pay or wages: _____

If "no," what was your last date of employment? _____

Gross monthly wages at the time: _____

3. In addition to your income stated above (which you should not repeat here), have you or anyone else living at the same residence as you received more than \$200 in the past 12 months from any of the following sources? Check all that apply.

(a) Business, profession, or other self-employment Yes No
(b) Rent payments, interest, or dividends Yes No

(c) Pension, annuity, or life insurance payments	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
(d) Disability or worker's compensation payments	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
(e) Gifts or inheritances	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
(f) Any other public benefits (unemployment, social security, food stamps, veteran's, etc.)	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
(g) Any other sources	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

If you answered "No" to all of the questions above, explain how you are paying your expenses:

4. How much money do you have in cash or in a checking, savings, or inmate account?

5. Do you own any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value, including any item of value held in someone else's name? If so, describe the property and its approximate value:

6. Do you have any housing, transportation, utilities, or loan payments, or other regular monthly expenses? If so, describe and provide the amount of the monthly expense:

7. List all people who are dependent on you for support, your relationship with each person, and how much you contribute to their support (only provide initials for minors under 18):

8. Do you have any debts or financial obligations not described above? If so, describe the amounts owed and to whom they are payable:

Declaration: I declare under penalty of perjury that the above information is true. I understand that a false statement may result in a dismissal of my claims.

Dated

Signature

Name (Last, First, MI)

Prison Identification # (if incarcerated)

Address

City

State

Zip Code

Telephone Number

E-mail Address (if available)